



Senate

General Assembly

File No. 183

February Session, 2000

Substitute Senate Bill No. 549

Senate, March 22, 2000

The Committee on Insurance and Real Estate reported through SEN. BOZEK of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Filing Requirements For Large Commercial Risk Insurance.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-676 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) [With] Except as provided in subsection (d) of this section, with
4 respect to rates pertaining to commercial risk insurance, and subject to
5 the provisions of subsection (b) of this section with respect to workers'
6 compensation and employers' liability insurance, on or before the
7 effective date [thereof] of such insurance, every admitted insurer shall
8 submit to the Insurance Commissioner for [his] the commissioner's
9 information, except as to inland marine risks which by general custom
10 of the business are not written according to manual rates or rating
11 plans, every manual of classifications, rules and rates, and every
12 minimum, class rate, rating plan, rating schedule and rating system
13 and any modification of the foregoing which it uses. Such submission

14 by a licensed rating organization of which an insurer is a member or
15 subscriber shall be sufficient compliance with this section for any
16 insurer maintaining membership or subscribership in such
17 organization, to the extent that the insurer uses the manuals,
18 minimums, class rates, rating plans, rating schedules, rating systems,
19 policy or bond forms of such organization. The information shall be
20 open to public inspection after its submission.

21 (b) Each filing as described in subsection (a) of this section for
22 workers' compensation or employers' liability insurance shall be on file
23 with the Insurance Commissioner for a waiting period of thirty days
24 before it becomes effective, which period may be extended by the
25 commissioner for an additional period not to exceed thirty days if [he]
26 the commissioner gives written notice within such waiting period to
27 the insurer or rating organization which made the filing that [he] the
28 commissioner needs such additional time for the consideration of such
29 filing. Upon written application by such insurer or rating organization,
30 the commissioner may authorize a filing which [he] the commissioner
31 has reviewed to become effective before the expiration of the waiting
32 period or any extension thereof. A filing shall be deemed to meet the
33 requirements of sections 38a-663 to 38a-697, inclusive, unless
34 disapproved by the commissioner within the waiting period or any
35 extension thereof. If, within the waiting period or any extension
36 thereof, the commissioner finds that a filing does not meet the
37 requirements of said sections, [he] the commissioner shall send to the
38 insurer or rating organization which made such filing written notice of
39 disapproval of such filing, specifying therein in what respects [he] the
40 commissioner finds such filing fails to meet the requirements of said
41 sections and stating that such filing shall not become effective. Such
42 finding of the commissioner shall be subject to review as provided in
43 section 38a-19.

44 (c) [The] Except as provided in subsection (d) of this section, the
45 form of any insurance policy or contract the rates for which are subject

46 to the provisions of sections 38a-663 to 38a-697, inclusive, other than
47 fidelity, surety or guaranty bonds, and the form of any endorsement
48 modifying such insurance policy or contract, shall be filed with the
49 Insurance Commissioner prior to its issuance. The commissioner shall
50 adopt regulations, in accordance with the provisions of chapter 54,
51 establishing a procedure for review of such policy or contract. If at any
52 time the commissioner finds that any such policy, contract or
53 endorsement is not in accordance with such provisions or any other
54 provision of law, [he] the commissioner shall issue an order
55 disapproving the issuance of such form and stating [his] the reasons
56 therefor. The provisions of section 38a-19 shall apply to any such order
57 issued by the commissioner.

58 (d) The provisions of this section shall not apply to large commercial
59 risk insurance. For purposes of this section, "large commercial risk"
60 means commercial insurance, except workers compensation and
61 professional liability insurance, where the insured certifies that it: (1)
62 Pays annual net aggregate commercial insurance premiums of fifty
63 thousand dollars or more, (2) employs a full time risk manager or
64 procures its insurance through a licensed independent agent or
65 licensed insurance consultant, and (3) (A) generates annual net
66 revenues or sales in excess of ten million dollars, (B) employs more
67 than twenty-five employees per individual insured or more than fifty
68 employees per holding company in the aggregate, (C) has a net worth
69 in excess of twenty-five million dollars, or (D) is a not-for-profit
70 organization or a public body or agency generating annual budgeted
71 expenditures of at least twenty-five million dollars.

72 Sec. 2. Section 38a-327 of the general statutes is repealed and the
73 following is substituted in lieu thereof:

74 [On or before April 1, 1988, the] The Insurance Commissioner shall
75 adopt regulations, in accordance with the provisions of chapter 54, to
76 establish standards for insurance policies written on a claims-made

77 basis. Such regulations shall not apply to large commercial risks as
78 defined in section 38a-676, as amended by this act.

79 Sec. 3. Section 38a-741 of the general statutes is repealed and the
80 following is substituted in lieu thereof:

81 (a) The commissioner shall maintain on a current basis a list of those
82 lines of insurance or their components for which coverages are
83 believed by the commissioner to be generally unavailable from
84 licensed insurers. The commissioner shall republish the list and make
85 it available to all licensees every six months. Any person may request
86 in writing that the commissioner add or remove a line of insurance or
87 its component from the current list at the next publication of the list.
88 The commissioner's determinations of lines of insurance or their
89 components to be added to or removed from the list shall not be
90 subject to chapter 54 provided prior to making determinations, the
91 commissioner shall provide opportunity for comments from interested
92 persons.

93 (b) [When any] Except with respect to a large commercial risk, as
94 defined in section 38a-676, as amended by this act, when a policy of
95 insurance is procured under the authority of such license providing a
96 line of insurance or its component which does not, on the effective date
97 of coverage, appear on the current published list, there shall be
98 executed, both by the licensee and by the insured, affidavits setting
99 forth facts showing that such insured and such licensee were unable
100 after diligent effort to procure, from any authorized insurer or
101 insurers, the full amount of insurance required to protect the interest of
102 such insured, and further showing that the amount of insurance
103 procured from an unauthorized insurer or insurers is only the excess
104 over the amount so procurable from authorized insurers. Such
105 affidavits shall be filed by such licensee with the commissioner
106 [within] not later than forty-five days after such policies have been
107 procured.

INS **Committee Vote:** Yea 10 Nay 7 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Insurance

Municipal Impact: None

Explanation**State Impact:**

The Department of Insurance will have a minimal workload decrease as a result of the passage of this bill. The bill specifies that large commercial risk insurers are not subject to section 38a-676 which states that a manual of classifications, rules and rates, class rates, rating and rating systems are not required to be submitted to the Insurance Commissioner for review.

OLR Bill Analysis

sSB 549

AN ACT CONCERNING FILING REQUIREMENTS FOR LARGE COMMERCIAL RISK INSURANCE.**SUMMARY:**

This bill exempts "large commercial risk" from the following requirements if the insured satisfies certain financial criteria: (1) rate and policy or contract form filing requirements, (2) the affidavit requirement the insured and insurance producer must sign when they buy insurance that is not readily available in the state, and (3) regulations for insurance written on a claims-made basis. The exemptions do not apply to workers' compensation and professional liability insurance.

Under current law, most commercial risk insurance rates, policy or contract forms, and any modification of them must be filed with the insurance commissioner for his review before they become effective or are issued.

EFFECTIVE DATE: October 1, 2000

EXEMPTION CRITERIA

The bill requires the insured to certify to the following financial conditions to qualify for the large commercial risk exemptions:

1. he pays \$50,000 or more in annual net aggregate commercial insurance premiums,
2. he employs a full-time risk manager or buys insurance through a licensed independent agent or insurance consultant, and
3. he generates in excess of \$10 million in net annual revenue or sales, employs more than 25 employees or more than 50 in the aggregate if a holding company, and has a net worth in excess of \$25 million or generates annual budgeted expenditures of at least \$25 million if

a not-for-profit organization or a public body or agency.

BACKGROUND

Affidavit Requirement

By law, the commissioner must maintain and periodically publish a list of insurance coverages that he believes are generally unavailable from licensed insurers in the state. Surplus line brokers are permitted to obtain from unlicensed insurers coverage identified on the list under certain circumstances. If the broker obtains coverage not on the list, the insured and broker must sign an affidavit stating that, after diligent efforts, they were unable to obtain full coverage from an insurer licensed in the state and that the amount of insurance obtained from the unlicensed insurer was only excess over the amount obtained from a licensed insurer.

Claims-Made Policy Regulations

The regulations specify the types of risks that may be covered by a claims-made policy, and sets minimum standards, disclosure, and notice requirements for policies written on a claims-made basis.

“Claims-made policies” cover liability for injury or damage that the insured is legally obligated to pay that arise out of incidents, acts or omissions, as long as the claim is first made during the policy period or any extended reporting period.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 10 Nay 7